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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 30 July 2010 from the Permanent Mission of Ireland to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Ireland to the United Nations presents its compliments to the Chair of the Security Council Committee established pursuant to resolution 1540 (2004) and has the honour to transmit herewith a report containing additional information on the implementation by Ireland of Security Council resolution 1540 (2004), as well as a Biological Weapons Bill presented in Dáil Éireann on 27 July 2010 (see annex).

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Annex to the note verbale dated 30 July 2010 from the Permanent Mission of Ireland to the United Nations addressed to the Chair of the Committee

Additional information on Ireland's implementation of Security Council resolution 1540 (2004)

1. As indicated in previous reports on the implementation of Security Council resolution 1540 (2004), Ireland remains a strong supporter of efforts to prevent the proliferation of weapons of mass destruction (WMD) through compliance with multilateral arms control and non-proliferation treaties. Ireland is a State party to the Treaty on the Non-Proliferation of Nuclear Weapons, the Chemical Weapons Convention and the Biological Weapons Convention.

2. Ireland fully supports the work of the 1540 Committee in ensuring the implementation of resolution 1540 (2004) and believes that the implementation of the resolution is a vital element in tackling the threat posed by the proliferation of weapons of mass destruction and their means of delivery and, in particular, the possession of such weapons by non-State actors.

3. Ireland is currently in the process of taking additional measures to enhance the implementation of its international obligations under resolution 1540 (2004). In addition, it wishes to provide information on further developments in its efforts to tackle the threat posed by the proliferation of weapons of mass destruction on a number of fronts.

Administrative action

4. A new Interdepartmental Committee on Non-Proliferation of Weapons of Mass Destruction was established in early 2010, following a Government decision, with membership drawn from all relevant Government departments and agencies. The Committee will ensure the coherent implementation of the State's obligations arising from resolution 1540 (2004) and the different international treaties and initiatives to which the State is a party, including the Biological and Toxin Weapons Convention, the Chemical Weapons Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, the Proliferation Security Initiative, the Global Initiative to Combat Nuclear Terrorism and the Group of Eight Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as well as the various export control regimes (relating to both military and dual-use goods). The Committee will also address other issues relating to the non-proliferation area as necessary and assist in co-coordinating activities arising from the State's undertakings under the various export control regimes to which it is party. It will advise the Government on these and related matters. The Committee is chaired by the Department of Foreign Affairs and, in the case of matters relating to export control regimes and licensing policy falling under its remit, by the Department of Enterprise, Trade and Innovation. The Departments of Defence; Environment, Heritage and Local Government; Health and Children; Justice and Law Reform; and Transport, as well as the Defence Forces, An Garda Síochána (police), the Revenue Commissioners (Revenue Customs Service), the Radiological Protection Institute of Ireland (RPII), the Health and Safety Authority (HSA), the Health and Safety Executive, Enterprise Ireland, the Industrial Development Authority and Science Foundation Ireland, are

represented on the Committee. The Committee, can at its discretion, invite other individuals or bodies to become members or to attend its meetings.

Legislative action

Biological Weapons Bill 2010

5. Further to information provided in the 2006 additional report, in February 2010 the Government approved the drafting of the Biological Weapons Bill 2010. A draft Biological Weapons Bill has been prepared to create appropriate, specific criminal offences as required by the 1972 Biological Weapons Convention. The Bill would expressly prohibit the use, development, production, manufacture, possession, stockpiling, acquisition, retention or transfer of biological weapons and apply the prohibition to ships and aircraft registered in Ireland and to members of the Defence Forces and citizens of Ireland outside the State. It would make it a criminal offence to contravene these prohibitions and makes provision for penalties upon conviction. The Bill was published on 30 July 2010 and will be considered by the Oireachtas (Parliament) during the forthcoming parliamentary session.

Control of Exports Act 2008

6. The primary piece of national legislation on export control matters is the Control of Exports Act 2008. It establishes a robust framework for Ireland's export control regime, enabling the adoption of ministerial orders controlling exports of certain classes of goods and technology, and for the control of certain classes of technical assistance and brokering activities. The Act also contains strong enforcement provisions, and creates summary and indictable offences for breaches of the Act.

Control of Exports (Dual Use Items) Order 2009

7. The Control of Exports (Dual Use Items) Order 2009 gives further effect to Council Regulation No. 428/2009 on dual-use items. In addition to providing for penalties for breaches of the Regulation, the Order extends brokering controls to items not listed in annex I, of Regulation No. 428/2009 if they are to be used in connection with WMD or missiles capable of delivering such weapons, or for a military end-use in a country which is subject to an arms embargo. This is in addition to the mandatory (i.e., directly effective) provision in the Regulation that brokering services will require an authorization if they concern items listed in annex I to the Regulation and if the broker knows, or is informed by the authorities, that these are or may be intended for an end-use in connection with WMD or missiles capable of delivering WMD.

8. The Order prohibits the transit of non-Community dual-use items listed in annex I of the Regulation if the items are or may be intended for use in connection with WMD or missiles capable of delivering such weapons. It also extends controls to the transit of non-Community dual-use items not listed in annex I where the items are or may be intended for use in connection with WMD or missiles capable of delivering WMD, or for a military end-use in a country which is subject to an arms embargo.

9. The Order further provides that the Minister may prohibit or impose an authorization requirement on the export of dual-use items not listed in annex I for reasons of public security or human rights considerations.

Control of Exports (Goods and Technology) Order 2009

10. The Control of Exports (Goods and Technology) Order 2009 provides for the control of exports of goods and technology listed in the Schedule to that Order, being goods and technology on what is commonly referred to as the European Union (EU) Common Military List. It provides that such goods and technology cannot be exported "save under and in accordance with a licence".

Proposed Brokering Order

11. The Control of Exports Act 2008 gives the Minister power, inter alia, to impose controls on "such class or classes of brokering activities" as may be specified in an order. The preparation of an order which will impose a licensing requirement on the brokering of goods and technology on the EU Common Military List is at an advanced stage. The proposed new order will cover the brokering of items:

(a) From a third country to a third country (i.e., from a non-EU country to another non-EU country);

(b) From the State to a third country;

(c) From another EU member State to a third country.

Additional information

European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR): transport of dangerous goods

12. As an update to information provided in the 2006 additional report, Ireland is now a contracting party to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), done at Geneva on 30 September 1957. Ireland's Health and Safety Authority is the principal competent authority for ADR in Ireland. However, RPII has a statutory responsibility in relation to the approval of specialized training courses for those involved in the transport of radioactive material. In December 2007, RPII approved the first such course in Ireland for drivers, and this was a significant step forward in the availability in Ireland of the required radiation protection training in the transport sector. In 2006, RPII and the Health and Safety Authority established a memorandum of understanding that sets out areas of shared interest and responsibility, particularly in relation to the health and safety aspects of ionizing radiation in the workplace and the modalities by which cooperation in those areas shall be exercised (transport by road, hazards in the workplace involving ionizing radiation, accidents in the workplace involving ionizing radiation, and radon in the workplace).

Physical Protection and security of radioactive sources

13. The primary responsibility for the safety and security of radioactive sources in Ireland rests with the licensed holders of such sources. Radioactive sources should be used and stored in a manner that takes into account an appropriate level of passive and active security measures to prevent, in so far as possible, the loss or theft of any licensed item and the unauthorized access to, or unauthorized removal from, its assigned location.

14. In the light of security concerns expressed both nationally and internationally in relation to the potential consequences of the accidental loss of control of such sources or their diversion for malevolent purposes, RPII and An Garda Síochána recognized the need to combine their expertise and resources to establish/determine appropriate levels of security for facilities holding such sources and to ensure that these standards are enforced in Ireland.

15. To this end, RPII and An Garda Síochána agreed upon a joint programme of work in 2007 aimed at assessing current security provisions with a view to raising the standards to best international security practice appropriate to the type of source and the facility.

16. The security of radioactive sources at licensed facilities continues to be an area that requires ongoing vigilance. Work commenced with An Garda Síochána's National Crime Prevention Unit (NCPU) on a specific project reviewing the security arrangements in place at licensees' premises with radioactive sources that come under the scope of the European Commission's high-activity sealed sources Directive in the industrial, medical and education and research sectors. This is being followed up by visits to undertakings holding sources that are no longer in use and undertakings that have sources in use where there may be, by the nature of the activity carried out, significant public access around/near the sources or frequent transport of radioactive materials on public roads.

17. Security surveys are undertaken by officers from NCPU, facilitated by RPII inspectors, with the objective of ensuring high standards of security. While the results are, in general, reassuring, a number of recommendations are made, covering physical and administrative controls. The implementation of these recommendations are being followed up by RPII inspectors and, where appropriate, members of NCPU.

Addendum to the entry under operative paragraph 3 (safeguards office) of the 2004 report

18. Under Commission Regulation (Euratom) No. 302/2005, on the application of Euratom safeguards, a company involved in non-destructive testing now reports a depleted uranium inventory at its facilities under the catch all material balance area (annex I-G). This is reported to the nuclear material accountancy section of DG TREN Directorate H, Luxembourg.

Chemical Weapons Act 1997

19. The Chemical Weapons Act 1997 designates HSA as the "the National Authority" for implementation of the Chemical Weapons Act in Ireland. To fulfil Ireland's duties under the Act, the National Authority prepares biannual declarations. These declarations are then submitted to Ireland's permanent representation to the Organization for the Prohibition of Chemical Weapons (OPCW) in The Hague. The OPCW inspectors conduct inspections in Ireland. The National Authority is in attendance for these inspections to provide assistance and clarifications to the inspectors. The purpose of the inspections is to verify that information provided in Ireland's declarations is consistent with activities inspected by the OPCW inspectors.

Safety, Health and Welfare at Work (Biological Agents) Regulations

20. HSA is the national body in Ireland with responsibility for the Safety, Health and Welfare at Work (Biological Agents) Regulations, 1994 (Statutory Instrument No. 146 of 1994), as amended in 1998 by Statutory Instrument No. 248 of 1998. The function of HSA is restricted to ensuring that workers are not at risk from exposure or potential exposure to biological agents while at work and/or performing their work activities.

Addendum to the entry on Customs in the 2004 report

21. In addition to the information provided in the 2004 report on the legislative measures in place to prevent the proliferation of WMD in the customs area, the Irish Customs Service also applies Council Regulation No. 648/2005 as implemented by Commission Regulation No. 1875/2006 in respect of the import of goods from outside the European Union and the export of goods to third countries.

Customs Automated Entry Processing system

22. The Revenue Commissioners Automated Entry Processing (AEP) system has now been redeveloped and launched. The AEP system is responsible for receiving, validating, processing and clearance of all customs procedures in a real-time environment. All declarations at import and export are subject to risk assessment, thus allowing Customs officials increased scope to target the movement of high-risk and suspicious transactions. The Customs National Freight Intelligence Unit profiles freight movements for suspect consignments.

23. Two mobile container scanners are in use by the national authorities. Both scanners are suitable for screening freight containers and vehicles, and have an additional detection capability for nuclear and radioactive substances. Arrangements are in place with RPII to deal with any consignments about which Customs may have concerns.

Shipments Directive

24. During 2009, Council Directive 2006/117/Euratom, on the supervision and control of shipments of radioactive waste and spent fuel, was transposed into Irish law as the European Communities (Supervision and Control of Certain Shipments of Radioactive Waste and Spent Fuel) Order, 2009 (Statutory Instrument No. 86 of 2009), revoking previous provisions under the European Communities (Supervision and Control of Certain Shipments of Radioactive Waste) Regulations, 1994 (Statutory Instrument No. 276 of 1994), and RPII is the competent authority for the legislation.

25. The Directive provides for a compulsory and common system of notification and a standard control document regarding such shipments. In particular, shipments made under the provisions cannot take place until the competent authorities of the country of destination and of any country of transit have notified the competent authorities of the country of origin of their approval. Refusal by a member State of destination or transit must be justified and be consistent with international law and best practice. The Directive prohibits the export of radioactive waste to African, Caribbean or Pacific countries, in line with the Cotonou Agreement, to a destination south of latitude 60 degrees south or to a third country which does not have the resources to manage the radioactive waste safely.

Import and export of radioactive sources

26. In accordance with the Radiological Protection Act 1991 (Ionizing Radiation) Order, Statutory Instrument No. 125 of 2000, an application for a licence to import and/or export a radioactive source must be made to RPII not later than one month before the proposed commencement of the practice concerned. The practice must not be commenced by the applicant unless and until the licence has been granted by RPII. A person using or holding sealed radioactive sources without a valid licence may be liable on summary conviction to a substantial fine and/or a term of imprisonment.

Shipment of sealed sources

27. Items being transported from within the European Union require the completion of the standard shipping declaration document pursuant to Council Regulation (EEC) No. 1493/93 for the shipment of sealed sources between States members of the European Community. This shall be completed by the consignee and stamped by RPII in advance of the shipment(s).

28. For sealed sources being sent to another State member of EU, the licensee must ensure that the competent authority in that State has approved and stamped the 1493 form prior to the shipment.

29. Licensees who intend to acquire or return a sealed source from/to any State outside the European Union must first apply for an import or export licence (as appropriate) from the Regulatory Services Division of RPII. This is required in advance of the shipment(s).

30. The Customs Service is aware of these requirements and has reflected them in the Custom Officers Manual and in website documentation on the movement of goods to and from other States. The Harbour Master's Office of the Dublin Port Company is also fully briefed on these requirements, and a good rapport has been established for many years now on declared shipments of Class 7 goods by sea.

31. RPII has issued guidance material and a checklist on annual and ongoing requirements for holders of high-activity sealed sources. These cover in particular general information, record forms, import and export requirements, take-back agreements, security considerations and financial arrangements for the safe management of the sources.

Assistance to States — International Atomic Energy Agency Integrated Regulatory Review Service

32. Ireland contributes to the programmes of the International Atomic Energy Agency by providing experts to develop advisory literature, run training courses and provide guidance on radiation protection matters. Since 2007, this involved working visits to Botswana, Ghana, Spain, Kenya, Mauritius, Qatar, Uganda, South Africa and the United Republic of Tanzania. In addition, under the European Commission Technical Assistance and Information Exchange programme, RPII provided training in Romania on the implementation of EU legislation on the monitoring of radioactivity in the environment.